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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,344	09/30/2003	William F. Rush JR.	GRI-00-020-DIV	5772
33058	7590	03/24/2005	EXAMINER	
MARK E. FEJER GAS TECHNOLOGY INSTITUTE 1700 SOUTH MOUNT PROSPECT ROAD DES PLAINES, IL 60018			LEE, EDMUND H	
			ART UNIT	PAPER NUMBER
			1732	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/675,344

Applicant(s)

RUSH ET AL.

Examiner

EDMUND H. LEE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/30/03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

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### DETAILED ACTION

1. Claims 19-23 are objected to because of the following informalities: the word "saod" (cl 19, ln 9) is a misspelling; it should be --said--. Appropriate correction is required.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 19 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Behrens (USPN 4583390). Behrens teaches the claimed process as evidence at col 7, ln 59-col 8, ln 32 and figs 1-11. It should be noted that fixed frame 12, movable frame 80, side portions 16 and 36, and upper side portions 14 and 34 constitute a housing. It should be noted that moveable frame 80 constitutes a moveable top.

4. Claims 19 and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Null et al (USPN 6419424). Null et al teach the claimed process as evidenced at col 10, lns 3-21 and figs 5 and 5b. It should be noted that top portion 78 and bottom portion 79 constitute a housing.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

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obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Behrens (USPN 4583390). The above teachings of Behrens are incorporated hereinafter.

Behrens, however, does not teach the claimed length of the minor axis. The claimed length of the minor axis is a mere obvious matter of choice dependent on the desired final product and of little patentable consequence to the claimed process since it is not a manipulative step or feature of the claimed process. Further, the claimed length is generally well-known in the molding art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to set the length of the minor axis of Behrens to be within the claimed range in order to form a substantially round flexible plastic pipe.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Null et al (USPN 6419424). The above teachings of Behrens are incorporated hereinafter.

Null et al, however, does not teach the claimed length of the minor axis. The claimed length of the minor axis is a mere obvious matter of choice dependent on the desired final product and of little patentable consequence to the claimed process since it is not a manipulative step or feature of the claimed process. Further, the claimed length is generally well-known in the molding art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to set the length of the minor

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axis of Behrens to be within the claimed range in order to form a substantially round flexible plastic pipe.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patent illustrates the state of the art: GB 2017253

A.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571.272.1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EHL

EDMUND H. LEE  
Primary Examiner  
Art Unit 1732



3/17/05